

**Court No. - 9**

**Case :- CRIMINAL APPEAL No. - 2674 of 2022**

**Appellant :- Atikur Rahman**

**Respondent :- State Of U.P. Thru. Prin. Secy. Home And Another**

**Counsel for Appellant :- Sheeran Mohiuddin Alavi**

**Counsel for Respondent :- G.A.**

**Hon'ble Attau Rahman Masoodi,J.**

**Hon'ble Mrs. Renu Agarwal,J.**

Preventive detention of a citizen for just and plausible reasons is a measure permissible under law. In the present case, it is difficult for us to comment upon the reasons germane to the cause. We, however, notice that the counter affidavit, after filing of the charge-sheet, does not spell out any strong reason which may justify continued detention of the present appellant who is in judicial custody since 05.10.2020.

We also note that the charges were framed without due opportunity in the trial but the order has come to be set aside in a proceeding under Section 482 Cr.P.C. remitting the matter back to the trial court for proceeding afresh in accordance with law.

All the material relevant for the trial of the present appellant as well as the co-accused has already been collected and submitted to the court concerned. The antecedents of the present appellant are that of a student and

at the relevant point of time, it is stated that he was studying and pursuing Ph.D. course. This submission is not supported by any evidence insofar as the Ph.D. course is concerned.

Past antecedents of the appellant are not such as may justify his continued detention.

We also take note of the fact that the two co-accused who are named in the same F.I.R. have been enlarged on bail by a co-ordinate Bench of this Court and Hon'ble the Supreme Court. The role of the two co-accused persons enlarged on bail may slightly vary and for this purpose, a pointed query was made to the learned AGA viz. as to whether there is any generation of funds in which the appellant was involved to garner his financial position so as to threaten the harmony or security of the State. We are informed that barring a sum of Rs. 5,000/- credited to the account of the present appellant, no other financial gain through the website is apparently shown on the basis of any tangible material. The might of the State is bound by the constitutional morality and any departure would come to the rescue of the person aggrieved for Article 21 of the Constitution of India is the grundnorm.

The reasons for grant of bail insofar as the co-accused persons are concerned impress upon us, particularly when the charge-sheet has come to be filed and the trial is to commence.

For all the aforesaid reasons and the reasons spelt out in the bail orders of co-accused, we find it a fit case for grant of bail.

We, however, strike a note of caution that the appellant shall not indulge into any activity in furtherance of the offences attributed against him in the charge-sheet and all the conditions of bail as have been imposed in the case of co-accused persons shall equally apply in this case. We further provide that the appellant shall mark his presence in the local police station at the place where the appellant may be pursuing education or may be in gainful employment, and apprise about his whereabouts in the register maintained in that behalf.

Let the appellant Atikur Rahman involved in FIR No. 0199 of 2020 and charge sheeted under Sections 153-A, 295-A 124-A, 120-B IPC, Section 17 and 18 of UAPA, 1967 and Section 65 and 72 of the IT Act, Police Station Manth, District Mathura be released on on bail on furnishing a bail

bond and two sureties to the satisfaction of the court concerned.

The criminal appeal is accordingly allowed.

**Order Date :- 15.3.2023**

Fahim/-